



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

February 22, 2019

To: The Honorable Sylvia Luke, Chair,
The Honorable Ty J.K. Cullen, Vice Chair, and
Members of the House Committee on Finance

Date: Friday, February 22, 2019

Time: 12:30 p.m.

Place: Conference Room 308, State Capitol

From: Scott T. Murakami, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 390 HD1 RELATING TO WORKERS' COMPENSATION

I. OVERVIEW OF PROPOSED LEGISLATION

This measure proposes to eliminate the sunset date of June 30, 2019 set forth in Act 172 (SLH, 2017), thus making permanent:

- the right of the employee to record a medical examination relating to a workers' compensation injury,
- the allowance for a chaperone to be present during an employee's medical examination relating to a workers' compensation injury, and
- the suspension of an employee's right to claim compensation for a work injury if the employee or the employee's chaperone obstructs a medical examination relating to a workers' compensation injury.

DLIR supports this measure.

II. CURRENT LAW

Section 386-79 (a), HRS, provides in part that when an employee is scheduled for a medical examination, "The employee shall also have the right to record such examination by a recording device designated and paid for by the employee; provided that the examining physician or surgeon approves of the recording."

Section 386-79(a) also requires suspension of the employee's right to claim compensation if the employee refuses to submit to examination or the employee's designated chaperone obstructs the examination.

These provisions in the law were enacted by Act 172 (SLH, 2017) and would sunset on June 30, 2019, with section 386-79, HRS, reenacted in the form in which it read on the day before the effective date of Act 172.

III. COMMENTS ON THE HOUSE BILL

DLIR supports making permanent these provisions added to the law by Act 172.

HB-390-HD-1

Submitted on: 2/21/2019 8:40:52 AM

Testimony for FIN on 2/22/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan P. Armstrong	Oahu County Democrats	Support	No

Comments:



**To: Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair
Members of the Committee on Finance**

Date: Friday, February 22, 2019

Time: 12:30 p.m.

**Place: Conference Room 309
State Capitol
415 South Beretania Street**

Support for House Bill 390 HD1

As Chair of the Legislative Committee and Past President of Work Injury Medical Association of Hawaii representing the providers treating injured workers in our state, we strongly support HB 390 HD1.

The key provision of this bill provides for the following:

Removes the sunset date (June 30, 2019) of the provision allowing an employee to have the right (i) to have a physician, surgeon, or chaperone designated and paid by the employee present at the examination, and (ii) to record such examination by a recording device designated and paid for by the employee.

Justification:

- Employer's physicians do not have any duty of care to the injured worker and often unreasonably delay the impartial examination.
- For many workers with severe injuries, the workers' compensation system is the only thing that stands between them and a downward spiral of unemployment, debt and even homelessness. The use of "employer medical examinations" results in delays that often have devastating consequences to injured workers.
- For injured workers, these medical examinations can be very intimidating with so much at stake.
- Allowing a worker to bring a chaperone and record such an examination provides comfort to the worker and greater transparency and evidence to a process often shrouded in secrecy.
- This bill attempts to bring greater fairness to the IME process by holding the employer physician more accountable for his/her diagnosis.

- I would encourage you to read, if you haven't already, the Civil Beat series "Waiting In Pain" at <http://www.civilbeat.org/projects/waiting-in-pain/> and the related more recent article at <https://www.civilbeat.org/2018/12/delays-denials-wasted-tax-dollars-does-troubled-treatment-of-injured-workers/>.

Sincerely,

Scott J Miscovich MD

Chair of Legislative Committee and Past President

Work Injury Medical Association of Hawaii

finance1 - Sean

From: Matthew Matsunaga <mmatsunaga@schlackito.com>
Sent: Friday, February 22, 2019 9:30 AM
To: FINtestimony
Subject: Dr. McCaffrey's Testimony on HB390 HD1
Attachments: Dr. McCaffrey's testimony to FIN on HB390 HD1.docx

Please see Dr. Scott McCaffrey's testimony for HB390 HD1.

Thanks,
Matt

[Matthew M. Matsunaga](#)



Topa Financial Center • 745 Fort Street, Suite 1500 • Honolulu, Hawaii 96813
Direct: (808) 523-6061 • Main: (808) 523-6040 • Fax: (808) 523-6030
Email: <mailto:mmatsunaga@schlackito.com> • Website: www.schlackito.com

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finance1 - Sean

From: Maja Schjervheim <majaps@hawaii.edu>
Sent: Friday, February 22, 2019 9:35 AM
To: FINtestimony
Subject: Please Amend HB1191 to a Living Wage



Aloha Chair Luke, Vice-Chair Cullen, and members of the Committee,

Despite the nation's highest costs of living, there are 14 states that have minimum wages heading above ours in the next few years. If we are serious about improving the affordability of this state for our workers, it's imperative we have wages commensurate with our cost of living.

Please increase the minimum wage to at least \$17 per hour so that we have a wage that allows all workers to afford their basic needs.

Mahalo
Maja P. Schjervheim